

REMARKS

I. Introduction

With the addition of new claims 19 and 20, claims 1 to 20 are currently pending in this application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants once again respectfully request acknowledgment of the claim for foreign priority and an indication that a certified copy of the priority document has been received. In this regard, a claim for priority to German Application No. 102 35 368.9 was made, inter alia, in the "Combined Declaration and Power of Attorney for Patent Application" submitted on December 5, 2003, and a certified copy of German Application No. 102 35 368.9 was submitted on July 30, 2003.

II. Rejection of Claims 1 to 4, 9 to 13 and 18 Under 35 U.S.C. § 102(b)

Claims 1 to 4, 9 to 13 and 18 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,736,231 ("Breed et al."). Applicants respectfully submit that Breed et al. do not anticipate the present claims for the following reasons.

As an initial matter, Applicants note an inconsistency on page 2 of the Office Action. The Office Action indicates that claims 1 to 6 and 9 are rejected under 35 U.S.C. § 102 (b) but then goes on to discuss claims 1 to 4, 9 to 13 and 18. Given that a basis for rejection is provided for claims 1 to 4, 9 to 13 and 18, Applicants proceed on the basis that claims 1 to 4, 9 to 13 and 18 are rejected, however, clarification in this regard is respectfully requested.

Claim 1 relates to a device for automatically switching lighting equipment. Claim 1 recites that the device includes a sensor element for detecting at least infrared radiation and a filter element adapted such that substantially only infrared radiation is detectable by the sensor element.

Claim 10 relates to a device for automatically switching lighting equipment. Claim 10 recites that the device includes a sensor element configured to detect at least infrared radiation and a filter element positioned between a source of the at least infrared radiation and the sensor element configured to filter non-infrared radiation.

Breed et al. purportedly relate to a vehicular occupant motion detection system using radar. Nowhere do Breed et al. disclose, or even suggest a filter element adapted such that substantially only infrared radiation is detectable by the sensor element, as recited in claim 1, or a filter element positioned between a source of the at least infrared radiation and the sensor element configured to filter non-infrared radiation, as recited in claim 10. The Office Action generally references approximately eighteen columns of the text of Breed et al. (i.e., col. 12, lines 56 to 67 to col. 30, lines 1 to 60) and sixteen figures of Breed et al. (i.e., Figures 1 to 16) but fails to specifically indicate any filter element whatsoever. While col. 12, line 56 to col. 30, line 60 may make some reference to a transducer sensitive to infrared radiation, the cited eighteen columns of text make absolutely no mention whatsoever of a filter element adapted such that substantially only infrared radiation is detectable by the sensor element, as recited in claim 1, or a filter element positioned between a source of the at least infrared radiation and the sensor element configured to filter non-infrared radiation, as recited in claim 10. As regards the Office Action generalized reference to Figures 1 to 16, Figures 1 to 16 also do not show a filter element adapted such that substantially only infrared radiation is detectable by the sensor element, as recited in claim 1, or a filter element positioned between a source of the at least infrared radiation and the sensor element configured to filter non-infrared radiation, as recited in claim 10. Therefore, Breed et al. do not disclose, or even suggest, all of the limitations of claims 1 and 10.

It is "well settled that the burden of establishing a prima facie case of anticipation resides with the [United States] Patent and Trademark Office." Ex parte Skinner, 2 U.S.P.Q.2d 1788, 1788 to 1789 (Bd. Pat. App. & Inter. 1986). To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). As more fully set forth above, it is respectfully submitted that Breed et al. do not disclose, or even suggest, all of the features recited in claims 1 and 10.

Therefore, it is respectfully submitted that Breed et al. do not anticipate claims 1 and 10.

As for claims 2 to 4 and 9, which ultimately depend from claim 1 and therefore include all the features recited in claim 1, it is respectfully submitted that Breed et al. do not anticipate these dependent claims for at least the same reasons provided above in support of the patentability of claim 1.

As for claims 11 to 13 and 18, which ultimately depend from claim 10 and therefore include all of the features recited in claim 10, it is respectfully submitted that Breed et al. do not anticipate these dependent claims for at least the same reasons provided above in support of the patentability of claim 10.

In regard to claim 2 and 11, the Office Action refers to col. 28, line 65 to col. 29, line 52. However, this cited portion of Breed et al. makes no mention of automatically switching lighting equipment for a motor vehicle. Rather, this cited portion of Breed et al. apparently focuses on a window monitoring system.

In regard to claims 3 and 12, the Office Action refers to Figure 16. However, Figure 16 does not show a control device including an element for switching the lighting equipment as a function of the signal. As indicated above, Breed et al. make no mention of automatically switching lighting equipment for a motor vehicle.

In regard to claims 4, 9, 13 and 18, the Office Action alleges that Figures 1 to 16 show a filter element attachable to a glass pane of a motor vehicle and integrated into the sensor element. Respectfully, as indicated above, Figures 1 to 16 do not show a filter element, let alone one attachable to a glass pane of a motor vehicle and integrated into a sensor element.

Therefore, for all the foregoing reasons, withdrawal of this rejection is respectfully requested.

III. Allowable Subject Matter

Applicants note with appreciation the indication of allowable subject matter contained in claims 5 to 8 and 14 to 17. The Examiner will note that each of claims 5 and 14 has been rewritten herein in independent form to include all of the limitations of its respective base claim and any intervening claims. Claims 6 to 8 ultimately depend from claim 5, and claim 15 to 17 ultimately depend from claim 14.

It is therefore respectfully submitted that claims 5 to 8 and 14 to 17 are in condition for immediate allowance.

IV. New Claims 19 and 20

New claims 19 and 20 have been added herein. It is respectfully submitted that claims 19 and 20 add no new matter and are fully supported by the present application, including the Specification. Since claim 19 includes features analogous to features included in claim 1, it is respectfully submitted that claim 19 is patentable over the reference relied upon for at least the same reasons submitted above in support of the patentability of claim 1. Since claim 20 includes features analogous to features included in claim 10, it is respectfully submitted that claim 20 is patentable over the reference relied upon for at least the same reasons submitted above in support of the patentability of claim 10.

V. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

KENYON & KENYON

Dated:

April 12, 2005

By:

[Signature]

Richard L. Mayer
Reg. No. 22,490

HP 42,194

One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646